

**United States District Court
Northern District of Texas**

K'in Way Xi, George Gilmore,

Glen Marion, James Dawson

Plaintiff

Case No: 3:24-cv-00299-B-BN

Vs.

Benj. E. Sherman & Sons, Inc.

Defendant

PLAINTIFFS' AMENDED COMPLAINT

Memorandum of Law

Notice of Omnibus Motion

**Affidavit/Notice of Racial Discrimination, Employment Discrimination Based
on Race and Color & Contract Violation**

This affidavit is made pursuant to the above federal laws and notice of Defenses in respect to Title VII of the Civil Rights Act of 1964, 42 U.S. Code § 1981(a), and the Fair Housing Act (FHA).

“We, George Gilmore, K'in Way Xi, Glen Marion, and James Dawson, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.”

[Made Pursuant to the United States Constitution & Title 28 USCA Section 1746]

Introduction

1. **Facts:** George Gilmore, a Black American, was an employee of Axis Kessler Park and BES Kessler Park Fund XIII LLC, subsidiaries of Benj. E. Sherman & Sons, Inc. This includes Black Americans James Dawson, Jazmine Tajalle, and a White American, Glen Marion.
2. **Employment:** George Gilmore lived at the residence of Benj. E. Sherman & Sons, Inc. with an employee discount while working for the Defendant company, along with a roommate named K'in Way Xi.
3. **Management Orders:** Brandy Davis, a White woman in upper management of Defendant company, hired on a Property Manager named Shae Price, who's also a Black American; instructed employees of the property to remove unclaimed packages of residents from the premises after three months.
4. **Incident:** On September 25, 2023, Shae Price offered the unclaimed packages to employees after the three-month warning. On October 13, 2023, at 9am, Brandy Davis fired all Black employees for allegedly stealing packages, where they were simply following instructions from Manager Shae Price. White employees, including Glen Marion, who participated in the same activity, were initially retained.
5. **Racial Discrimination:** Brandy Davis did not ask any Black employees if they had stolen packages but accused them directly, calling the police on them. Glen Marion, a White

employee, was congratulated and retained initially, although he participated in the same actions as Black employees that Upper Management including Brandy Davis should have seen on said video footage Defendant company confirmed to have in their possession.

[See Exhibit A]

6. **Subsequent Actions:** After George, K'in, and Jazmine confronted Brandy Davis about the discriminatory actions, Glen Marion was fired hours later in an apparent attempt to cover up the discriminatory firing of Black employees. [See Exhibit B]

Motion to Produce Documents

We demand the original, untampered video footage where management claims they witnessed employees accepting packages as instructed by Property Manager Shae Price.

Motion for a Jury Trial

We demand a jury trial in this case as is our right.

Notice of Laws that Pertain Specifically to the Case

1. **Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015):** This case confirms that disparate impact claims are cognizable under the FHA. The Defendant's actions, which disproportionately affected Black employees and tenants, are a violation of the FHA.
2. **Harris v. Itzhaki, 183 F.3d 1043 (9th Cir. 1999):** This case supports the argument that racial bias motivated the Defendant's discriminatory actions against Black employees and residents.

3. **Salisbury v. Hickman, 974 F. Supp. 2d 1282 (N.D. Ala. 2013)**: This case demonstrates that sufficient evidence, like our video and audio recordings, can support claims of racial discrimination, warranting denial of a motion to dismiss.
4. **McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)**: Applying the burden-shifting framework, we establish a prima facie case of discrimination, shifting the burden to the Defendant to provide a legitimate, non-discriminatory reason for their actions.
5. **Harris v. Fed Ex Corporation, 4:21-cv-01651 (S.D. Tex.)**: Highlighting that employers violating Title VII by discriminating based on race are subject to legal action and required remedies.
6. **Texas Property Code, Chapter 92 (Residential Tenancies)**: This statute prohibits discrimination in rental practices, aligning with federal FHA standards.
7. **Texas Apartment Association (TAA) Lease Contract**: The standard TAA lease contract includes clauses prohibiting discrimination based on race, color, national origin, religion, sex, familial status, or disability.

Request for Discovery and Relief

1. We request the court grant our Motion to Compel Discovery and demand the production of the video footage mentioned herein.

Affidavit of Facts

1. Glen Marion, under affidavit (Exhibit C), was placed in an injurious position due to Defendant's racially discriminatory actions, retaining him while firing fellow Black employees for the exact same actions. Eventually having to be forced to relocate and

move several hours away to avoid homelessness with a new child a few months old due to the racial discrimination along with the mental and emotional toll Defendant put him through

2. Plaintiffs K'in Way Xi and George Gilmore were injured by Defendant's violations of the Fair Housing Act (FHA) and the Texas Apartment Association Contract, threatened with homelessness based on racial discrimination.
3. Plaintiff James Dawson had to relocate to a new home while also wrongly being threatened by police and eviction to avoid homelessness
4. Plaintiff James Dawson witnessed Brandy Davis asking Glen Marion about stolen packages while Black employees were not questioned but fired and threatened with police action.
5. All employees in this suit, including Glen Marion, were injured economically and mentally by Defendant's actions.
6. The Defendant violated the Fair Housing Act (FHA) and the Texas Apartment Association Contract, prohibiting discrimination based on race, color, national origin, religion, sex, familial status, or disability (See Exhibit D).

Remedy Demand

Due to Defendant's illegal actions violating federal employer laws and contract obligations, Plaintiffs demands:

1. The court subpoena the original video footage from Benj. E. Sherman & Sons, Inc.
2. The court assesses the claims within the realm of law governing racial discrimination based on Title VII of the Civil Rights Act of 1964 and 42 U.S. Code § 1981(a).

3. A judgment of \$60,000,000.00 for injuries and illegal acts committed by Defendant.

**We declare under penalty of perjury under the laws of the United States of America that
the foregoing is true and correct.**

K'in Way Xi

K'in Way Xi

George Gilmore

George Gilmore

Glen Marion

Glen Marion

James Dawson

James Dawson

[Made pursuant to Title 28 USCA Section 1746]

Respectfully submitted,

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